

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

FRANK J. KRATZ,)	
)	
Plaintiff,)	
)	2: 10-cv-00815
v.)	
)	
JAMES C. WARBRODT, ESQUIRE;)	
BENJAMIN R. BIBLER, ESQUIRE;)	
WILLIAM T. MOLCZAN, ESQUIRE;)	
PATRICK THOMAS WOODMAN, ESQUIRE;)	
DANIELLE PACENKA CULLEN, ESQUIRE;)	
WELTMAN, WEINBERG & REIS CO., L.P.A.;)	
DISCOVER BANK, JOHN DOE , and)	
JANE DOE,)	
Defendants.)	

ORDER OF COURT

By Order of Court entered on April 15, 2011, the Court ordered the Plaintiff to show good cause, filed in writing, on or before May 5, 2011, why the Complaint filed against defendants James C. Warbrodt, Esquire; Benjamin R. Bibler, Esquire; William T. Molczan, Esquire; Patrick Thomas Woodman, Esquire; Danielle Pacenka Cullen, Esquire; Weltman, Weinberg & Reis Co., L.P.A., John Doe, and Jane Doe should not be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 4(m) for failure to serve the Summons and Complaint in a timely manner.

As of the date of the entry of this Order, Plaintiff has not responded to the Show Cause Order of Court. However, on May 6, 2011, Plaintiff filed with the Clerk of Court documents which purported to be Summons / Return of Service for each of these named Defendants. Upon a review of the purported Summons / Return of Service, it is evident that these documents were not issued by the Clerk of Court. Federal Rule of Civil Procedure 4(a) specifically instructs that a summons must be signed by the clerk and bear the court's seal. The purported Summons filed on May 6, 2011, contain neither the signature of the clerk nor do they bear the court's seal. Thus, these "Summons" are a nullity and have no force or effect.

AND NOW, this 9th day of May, 2011, it is hereby **ORDERED, ADJUDGED AND DECREED** that Defendants James C. Warbrodt, Esquire; Benjamin R. Bibler, Esquire; William T. Molczan, Esquire; Patrick Thomas Woodman, Esquire; Danielle Pacenka Cullen, Esquire; Weltman, Weinberg & Reis Co., L.P.A., John Doe, and Jane Doe are hereby **DISMISSED** from this action without prejudice pursuant to Federal Rule of Civil Procedure 4(m) for failure of timely service of process.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

cc: Frank J. Kratz
643 Pulaski Mercer Road
New Wilmington, PA 16142
VIA FIRST CLASS AND CERTIFIED MAIL

Martin C. Bryce , Jr., Esquire
Email: bryce@ballardspahr.com

Danielle M. Vugrinovich, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
Email: dmvugrinovich@mdwcg.com

Estelle K. McGrath, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
Email: ekmcgrath@mdwcg.com